

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

THOMAS CIENIEWICZ,	:	
	:	
Plaintiff,	:	
	:	Civil Action No. 1:22cv172
v.	:	
	:	
DR. GHAFORPOUR, et al.,	:	
	:	
Defendants.	:	

**RULE 26(f) REPORT AND JOINT DISCOVERY PLAN**

Pursuant to Federal Rule of Civil Procedure 26(f), the parties respectfully submit this report and Joint Discovery Plan:

**1. Rule 26(f) Conference:** Plaintiff Thomas Cieniewicz (“Plaintiff”) and Defendants First Sergeant David Elliott, Wellpath, LLC, Kourosh Ghafourpour, DDS, and Alex Taylor, MD (“Defendants”) held an initial Rule 26(f) conference by telephone on August 29, 2022. The parties addressed their claims and defenses and the prospect of settlement, and discussed discovery as described below.

**2. Subjects and Sequence of Discovery:** All discovery shall be completed by January 13, 2023, and shall be subject to the limitations set forth in the Scheduling Order (Doc. No. 41), the Federal Rules of Civil Procedure, and the Local Rules of this Court, including as to the number of interrogatories and non-party depositions, subject to the agreed terms herein and any party’s right to seek to propound additional discovery by agreement of the parties or with authorization of the Court pursuant to the applicable rules. The parties agree that discovery should not be conducted in phases or limited in advance to particular issues but shall be subject to the right of any party to object to particular discovery requests in accordance with the

applicable rules. The parties intend to take discovery from third parties (subject to the limitations set forth in the Scheduling Order). The parties agree that the five-deposition limit applies only to non-party, non-expert witness depositions, and does not limit the parties' ability to take depositions of party witnesses.

**3. Answer:** Plaintiff agrees to file his Amended Complaint by September 23, 2022. Defendants will file their Answer to the Amended Complaint on or before October 14, 2022.

**4. Initial Disclosures:** The parties shall exchange initial disclosures as required by Federal Rule of Civil Procedure 26(a)(1) on or before September 19, 2022.

**5. Protective Order:** The parties will work together to submit a stipulated protective order for the Court's consideration. Until a protective order is entered, all documents and information shall be produced and received on a confidential, attorney's eyes only basis.

**6. Expert Disclosures:** The disclosures required by Federal Rule of Civil Procedure 26(a)(2) shall be made as follows:

- a. November 14, 2022: Plaintiff's Opening Expert Report
- b. December 14, 2022: Defendant's Opening Expert Report
- c. December 28, 2022: Plaintiff's Rebuttal Expert Report

**7. Production of Electronically Stored Information and Other Materials:** The parties shall confer to attempt to resolve any issues that may arise regarding the production of documents and electronically stored information, including any issues relating to the format in which these materials shall be produced. The parties agree that they will provide reciprocal forms of production.

**8. Method of Service:** The parties shall serve all pleadings and court filings in this case using the Court's electronic filing system, and documents will be deemed served per the Court's rules regarding timing. The parties shall serve discovery and discovery responses by email. Service of such discovery papers will be effective on the day of email transmission, except that service by email transmitted on a Saturday, Sunday, or federal holiday shall be effective as service on the next day that is not a Saturday, Sunday, or federal holiday.

**9. Preservation:** The parties affirm that they are taking reasonable steps necessary to preserve potentially discoverable material. This does not preclude either party from filing a motion related to the failure to preserve discoverable material.

**10. Privilege Assertions:** Federal Rule of Civil Procedure 26(b)(5) shall govern assertions of privilege and protection for trial-preparation materials, as well as "clawback" of inadvertently produced materials subject to a claim of privilege or of protection as trial-preparation material.

**11. Settlement:** The parties discussed prospects for settlement. The parties agree that it is premature to discuss settlement offers at the beginning of discovery, but the parties will remain open to settlement and agree to entertain discussions at a later date.

**12. Trial by Magistrate Judge:** The parties do not consent to trial before a magistrate judge.

**13. Waiver of Rule 16(b) Conference Appearance:** The parties consent to the Court ruling on these matters on this submission and agree to waive appearances at the pretrial conference if this Court deems it appropriate.

Respectfully submitted,

/s/

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*Counsel for Wellpath, Ghafourpour, & Taylor*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6<sup>th</sup> day of September, 2022, I will electronically file the foregoing ***Rule 26(f) Report and Joint Discovery Plan*** with the Clerk of Court using the CM/ECF system which will then send a notification of such filing (NEF) to the following:

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